

RAINES FELDMAN LITRELL LLP
Robert S. Marticello, State Bar No. 244256
rmarticello@raineslaw.com
Michael L. Simon, State Bar No. 300822
msimon@raineslaw.com
3200 Park Center Drive, Suite 250
Costa Mesa, CA 92626
Telephone: (310) 440-4100
Facsimile: (310) 499-4877

Proposed Counsel for The Original Mowbray's Tree
Service, Inc., Debtor and Debtor-In-Possession

FILED & ENTERED

OCT 24 2024

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY *deramus* DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA DIVISION

In re:

THE ORIGINAL MOWBRAY'S TREE
SERVICE, INC.,

Debtor and Debtor-in-Possession.

Case No: 8:24-bk-12674-TA

Chapter 11

**ORDER GRANTING, ON AN
INTERIM BASIS, DEBTOR'S
EMERGENCY MOTION FOR
ENTRY OF INTERIM AND FINAL
ORDERS AUTHORIZING USE OF
CASH COLLATERAL**

Hearing (via Zoom for Government):

Date: October 22, 2024

Time: 11:00 a.m.

Place: Courtroom

411 West Fourth Street
Santa Ana, CA 92701

On October 22, 2024, at 11:00 a.m., a hearing was held on the *Emergency Motion for Entry of Interim and Final Orders Authorizing Use of Cash Collateral* (the "**Motion**") filed by The Original Mowbray's Tree Service, Inc., the debtor and debtor-in-possession in the above-captioned case (the "**Debtor**"). Appearances were as noted on the record. Capitalized terms not expressly defined herein shall have the meanings ascribed to them in the Motion.

1 Having considered the Motion, all papers submitted in support thereof and opposition
2 thereto, the statements and arguments of counsel on the record, and finding that notice and
3 service of the Motion were proper,

4 **IT IS HEREBY ORDERED** that:

5 1. The Motion is granted to the extent provided herein.
6 2. The Debtor is authorized to use cash collateral on an interim basis through and
7 including the Final Hearing (the "**Cash Collateral Period**") in accordance with the budget
8 attached to this order as Exhibit "1" (the "**Budget**"). The expenditures during the Cash
9 Collateral Period covered by the Budget are not to exceed 115% per budget line item set forth
10 in the Budget for such period (*i.e.*, a 15% variance); *provided, however*, the total cash
11 expenditures during the Cash Collateral Period shall not exceed 110% of the total budgeted
12 disbursements in the Budget (*i.e.*, a 10% cumulative variance on disbursements).

13 3. During the Cash Collateral Period, any unused amount for any given line item
14 in the Budget for a particular week shall carry forward and can be used in later weeks, and any
15 amounts budgeted for a given line item in a particular week through the end of the current
16 Cash Collateral Period may be spent at an earlier time provided the total amount spent for such
17 line item does not exceed the total amount budgeted for that line item with the 15% variance.

18 4. If and to the extent that, as of the October 18, 2024, petition date (the "**Petition**
19 **Date**"), PNC Bank ("**PNC**") holds a duly perfected, unavoidable, and valid lien in all, or a
20 portion of, the Debtor's assets (collectively, the "**Prepetition Collateral**"), PNC will receive a
21 replacement lien in the Debtor's post-petition assets in the same extent, validity, and priority as
22 PNC's security interests in the Prepetition Collateral (collectively, the "**Security Interests**") to
23 the extent of any aggregate diminution in value with respect to PNC's Security Interests post-
24 petition, as calculated in accordance with § 506(a) of the Bankruptcy Code. The replacement
25 liens granted by this order shall be deemed perfected without the need for additional actions
26 otherwise required by applicable law. The replacement liens will not attach to Bankruptcy
27 Code Chapter 5 causes of action of the Debtor or the proceeds thereof. The replacement liens
28

1 will not apply to any reduction in cash value caused from the payment of an expense that is
2 later surcharged against any collateral based on Bankruptcy Code § 506(c). For the
3 avoidance of doubt, this order shall not be interpreted to mean that PNC is or is not entitled to
4 liens on post-petition assets to the extent such assets constitute proceeds of any duly perfected,
5 enforceable and unavoidable security interests and the parties reserve all rights and arguments
6 on this issue.

7 5. The Debtor reserves any and all rights, arguments and objections with respect
8 to the validity and scope of any lien asserted by any creditor in the Debtor's cash.

9 6. The Debtor is authorized to make the monthly payments to PNC and any other
10 secured creditors as provided in the Budget (each, a "**Monthly Payment**" and collectively, the
11 "**Monthly Payments**"). The respective rights of the parties as to whether the Monthly
12 Payments are applied to principal or interest as provided in the Bankruptcy Code and the
13 parties' respective loan documents are preserved.

14 7. A hearing on the Motion and the use of cash collateral on a final basis shall
15 occur on November 19, 2024, at 10:00 a.m. (the "**Final Hearing**")

16 8. The parties reserve any and all rights, arguments, and objections with respect to
17 the Motion.

18 9. Objections to the Motion, if any, shall be filed by no later than November 5,
19 2024.

20 10. Any reply to any objection to the Motion shall be filed by no later than
21 November 12, 2024.

22
23 Date: October 24, 2024



Theodor C. Albert
United States Bankruptcy Judge